New data laws put state power above people's privacy

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The interim government, since its inception, has been driven by two intertwined impulses: a mantra of reformist fervour on one hand, and populist politics and public pressure on the other. The resulting tension has often played out as a kind of political theatre, yielding outcomes that range from well-intentioned legal reforms to more symbolic gestures and stopgap policy measures—and the latter is nowhere more visible than in the proposed Personal Data Protection Ordinance, 2025 (PDPO) and the National Data Management Ordinance, 2025 (NDMO).

Strictly speaking, what these laws represent is not evidence-based, participatory, or rights-respecting policymaking, but rather what can be described as an illusion-stasis nexus. Within this nexus, the government's rush to legislate these statutes has aligned with popular calls for accountability and its own reformist narrative, creating the optics of progress without the implementation roadmap or institutional preparedness needed to sustain it. This approach reflects the traditional legislative reform playbook in Bangladesh: reactive, top-down, insular, and politically motivated, following a familiar pattern of "legislate first, deliberate later."

Yet, the arc of this reform could have bent another way. With insights from earlier draft proposals of the previous government and comparable frameworks from the European Union and their localised versions in Brazil, India, Singapore, and Sri Lanka, the government had a rare opportunity to craft laws grounded in the country's realities and responsive to its needs. It was almost a preconfigured success, a politically cost-free win.

However, the political calculus for the interim government is understandable: pass something, anything, and quickly, to dispel the deeper anxiety of inaction, trusting that the veneer of reform will outweigh deficiencies in legal design. Questions of implementation or effectiveness, after all, are for the next administration to confront before an expectant electorate.

Although the laws gesture towards global best practices by incorporating certain general data protection provisions, they reportedly stop short of fully internalising basic principles such as lawfulness, fairness, transparency, purpose limitation, data minimisation, confidentiality, and accountability. However, both laws are built on a misdiagnosis of deeper structural issues and, worse, on misaligned solutions.

Accountability for all, except the state

A study by Tech Global Institute shows that law enforcement, regulatory, and intelligence agencies have spent at least $190 million on surveillance technologies and spyware deployed against citizens. Despite commitments for transparent investigations, no meaningful actions involving wider stakeholder engagement or legislative amendments have followed.

One might reasonably expect the new data protection regime to curb such unaccountable and unrestrained state data practices. Instead, section 24 of the PDPO carves out sweeping exemptions on broad grounds such as national security, public order, law enforcement, and any other functions later defined by the government, effectively removing public institutions from legal scrutiny. Even where not explicitly exempted, ambiguous "necessity" provisions in section 5 allow data processing for compliance with legal obligations, public interest, or official authority, similarly shielding most public administrations from accountability. This means that while citizens and corporations are bound by statutory obligations, state agencies operate in a parallel universe of impunity—unbound by the same legal and procedural constraints and answerable to no one but themselves. This is engineered by design, not born of oversight.

First, sections 19 and 26 of the PDPO require all domestic and overseas data handlers to preserve personal data and surrender it to regulatory agencies without a warrant or other procedural safeguards. Secondly, section 29 of the PDPO confers broad discretion upon state authorities to designate undefined categories of personal data as "critical" or "confidential," effectively handing the government a blank cheque to impose mandatory localisation and cross-border restrictions. Once designated, the data must be housed within Bangladesh in a swiftly expanding web of state-monitored data centres. Exempt from legal compliance and empowered by vague provisions such as section 97A of the Bangladesh Telecommunications Regulation Act, 2001, the state apparatus can reach into these domestic vaults of information at will, surveilling, intercepting, and appropriating personal data with virtually no oversight or due process.

FILE VISUAL: **REHNUMA PROSHOON**

The government claims that an accountability mechanism for state abuses exists in section 48 of the PDPO, allowing administrative actions against state officials for privacy violations. But this provision is structurally unsound: if entire classes of state action are shielded from scrutiny, penalising officials for those same actions is unenforceable in practice and symbolic at best; at worst, it functions as a political manoeuvre designed to confuse rather than constrain.

Compounding this weakness is the strikingly disproportionate treatment of non-state actors, who face a penalty regime that reads like a checklist of everything the drafters could not decide between: criminal, administrative, and civil sanctions cobbled together without implementation guidance. Custodial terms of up to seven years place data offences on par with armed robbery or kidnapping, while corporate fines of 1-5 percent of turnover far exceed regional and global standards. Crucially, no comparable penalties apply to the state itself, rendering any supposed state accountability mechanism little more than a fig leaf.

Effectively, these provisions serve as a lever for state surveillance and other privacy-invasive behaviour without any meaningful accountability and, if historical patterns are any indication, risk entrenching impunity and enabling gross human rights abuses—ranging from arbitrary arrests and detention to enforced disappearances and extrajudicial killings.

Past patterns, repackaged

Admittedly, the proposed framework is not without merit, mirroring internationally recognised best practices in data governance and protection. But this resemblance stems less from thoughtful, consultative policymaking than from a cut-and-paste exercise detached from a democratic deliberation, feasibility analysis, or human rights impact assessment.

Take, for instance, the apex policymaking body and its implementing counterpart—the National Data Management Policy Formulation Board and the National Data Management Authority, respectively, created under the NDMO. Both are composed exclusively of government or government-appointed representatives, with hierarchical, executive-controlled structures that operate without independent oversight. This is similar to the executive committee of the National Economic Council and the Bangladesh Telecommunication Regulatory Commission. Without robust checks and accountability mechanisms embedded within these institutions, there can be no credible safeguard against the abuse of state power or the violation of citizens' fundamental rights to privacy, expression, and due process.

However progressive these laws may appear on paper, Bangladesh has historically lacked the infrastructural, administrative, and technological systems to operationalise, monitor, or enforce them. Meanwhile, companies can conveniently invoke overbroad extraterritorial provisions and an incoherent penalty regime to cite legal and compliance uncertainty or conflicting international obligations to evade accountability. The state, meanwhile, remains accountable to no one but itself. Ordinary citizens, as ever, have little practical recourse to hold either companies or the government to account—an enduring reminder that human rights protections in Bangladesh are more promise than practice.

What the government has produced is normatively ambitious but operationally hollow: a framework that aspires to modernity yet is likely to collapse under its own contradictions. These are but simulacra of reform that conceal an underlying incapacity, where policymaking is outsourced to appearances rather than grounded in citizens' fundamental rights. Bangladesh's digital future deserves more than another round of political posturing. For that, the blueprint must change. Ambition must be matched by a future-proof framework, rhetoric by a clear implementation roadmap, and authority by accountability.

Until the cycle of performative policymaking is broken, and until policy is reimagined as a social contract co-created with citizens rather than a sovereign decree imposed upon them, the state will continue to legislate for itself. The time has come to move from rule by reflex and fiat to governance by consent and consensus—for the people, by the people.

An Islamic pension is crucial, but it must be done right

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Views expressed in the article are the author's own.

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The elderly population in Bangladesh is increasing. According to the World Bank, life expectancy at birth now stands at 75.2 years and is projected to reach 80.9 years by 2050. During this period, the share of citizens aged 65 and above—generally deemed economically inactive—will double, pushing the old-age dependency ratio from 10.2 percent to 20.3 percent. This demographic shift raises an important question: who will care for the elderly?

Our traditional family-based support system, once the cornerstone of social security, is weakening due to urbanisation and migration. Smaller and single-person households are becoming more common. Dependence on working-age family members is no longer as reliable as it once was, as many struggle with job insecurity, inflation, and rising living costs. As these social dynamics evolve, millions risk entering old age without dependable family support.

Without an inclusive and sustainable pension system, Bangladesh could face a new form of poverty: longevity without financial security. Recognising this looming challenge, the government launched the Universal Pension Scheme (UPS) in August 2023 under the Universal Pension Management Act. The National Pension Authority (NPA), established earlier that year, aims to bring the majority of citizens under the scheme to ensure financial dignity in retirement.

The UPS currently offers four schemes for citizens aged 18 and above: Probash, Progoti, Surakkha, and Samata. Under these schemes, participants receive a monthly pension for life upon reaching the age of 60. If a participant passes away before turning 75, the pension continues to be paid to the nominee until the age the participant would have reached 75. In the event of death before becoming eligible for pension payments, the accumulated contributions—along with any earned profits—are returned to the nominee. Participants may also borrow up to 50 percent of their total contributions. These contributions are tax-deductible, and any pension income is fully tax-exempt.

Despite these benefits, enrolment has been persistently slow. As of June 30, 2025, only 373,987 participants have joined—just 0.37 percent of the NPA's ultimate target of 10 crore—with only 1,600 new sign-ups since October 15, 2024 (when the total was 372,387). Limited public awareness, policy uncertainty following the mass uprising, and concerns over nominee protection may have contributed to this sluggish response.

However, in a Muslim-majority country like Bangladesh, a more fundamental reason may lie in the absence of Islamic alternatives. Recognising this gap, the NPA approved a plan in May to develop Islamic versions of the UPS schemes and engaged Asian Development Bank-funded consultants to design them. This initiative presents a significant opportunity to expand pension coverage, but its success will depend on effectively addressing not only the Shariah compliance requirements but also the structural weaknesses of Bangladesh's Islamic finance ecosystem.

For the Islamic UPS to function effectively, viable Islamic investment avenues are crucial. However, Bangladesh's Islamic capital market remains shallow. Only two corporate sukuk have been issued so far, one of which is listed but trading at around half its face value despite regular coupon payments. In the equity market, roughly one-third of listed securities on both stock exchanges are deemed Shariah-compliant. Most of these are illiquid small-cap stocks and include Islamic banks currently engaged in merger discussions or dealing with high levels of non-performing assets.

It is important to note that the Islamic UPS must not become a mere conduit for government borrowing. Overreliance on sovereign sukuk could turn it into a deficit-financing tool rather than a driver of productive investment. As of the last count, about 95 percent of UPS funds have been invested in government bonds. The NPA should work with other regulators to make the system capable of diversifying into Islamic equities, real estate, infrastructure, and money markets, in addition to fixed-income instruments.

In the sovereign sukuk segment, six issuances worth Tk 24,000 crore have been made to date. These sukuk offer lower returns than conventional treasury instruments, and neither a secondary trading platform nor an issuance calendar has yet been established. Yet all have been oversubscribed, indicating strong demand for secure Islamic instruments. The launch of an Islamic UPS would amplify this demand and is likely to create idle liquidity in the market unless more investment channels are developed.

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A robust regulatory framework will be essential to manage Islamic UPS funds in accordance with Shariah principles. This includes clear rules for profit distribution, surplus and deficit management, and performance guarantees. Existing pension and financial regulations seem to have been drafted without considering an Islamic alternative, and several provisions conflict with Islamic finance principles. Therefore, effective coordination among regulators will be critical to harmonising and streamlining the overall regulatory framework.

Equally important is building public trust. Islamic finance initiatives in Bangladesh often face early scepticism due to limited awareness. The Islamic UPS should, therefore, be launched only after wide engagement with religious and community leaders as well as financial experts. Public consultations, transparent disclosures, and credible Shariah certification will be key to its acceptance.

The NPA must also establish a competent Shariah Supervisory Committee (SSC) to oversee compliance. SSC members, often mistakenly assumed to be experts by default, should receive structured capacity-building and technical support to perform their oversight roles effectively. Periodic reports on the Islamic UPS should be produced, including the SSC's opinions, income purification details, and Shariah audit outcomes. Islamic UPS portfolios should be ring-fenced, and the IT systems should be capable of ensuring this control.

Ultimately, the success of any pension system depends on competent fund management. Bangladesh currently faces an acute shortage of actuaries and professional fund managers. A recent report noted that while the country needs about 30-40 actuaries, it has only three or four, and not all are based in Bangladesh. The shortage is even more pronounced in Islamic finance, which has a narrower investment universe and requires expertise in both finance and Shariah. Encouragingly, the government is considering establishing a dedicated actuarial institute.

Bangladesh has taken a commendable step by recognising the need for an Islamic UPS. However, it should be envisioned not merely as a retirement plan or a religious initiative, but as a transformative institutional investor capable of reshaping Bangladesh's financial ecosystem. This ambition must be matched by preparation, and the scheme must be designed and managed with professionalism and integrity. It must go beyond replicating conventional models, with its pricing and fund management strategies reflecting genuine Islamic principles rather than conventional benchmarks presented in Islamic form.

CROSSWORD BY THOMAS JOSEPH

ACROSS
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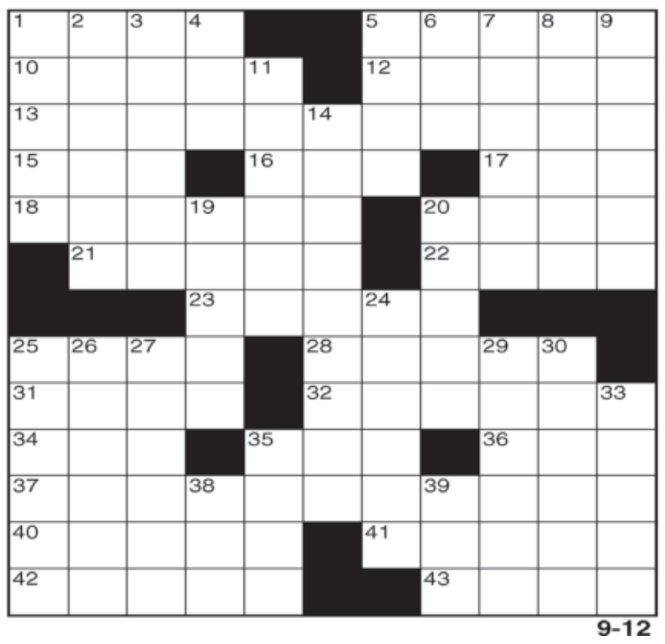

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YESTERDAY'S ANSWERS

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